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 an individual, and LANE ENTERTAINMENT, INC.,  
 a California Corporation

**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

**CV 08-06739** (FILED)

CHERILYN MCCARVER, an individual, and LANE  
 ENTERTAINMENT, INC., a California Corporation,

Plaintiffs,

vs.

VIVID ENTERTAINMENT GROUP, LLC, a  
 California Limited Liability Company; DIGITAL  
 PLAYGROUND, INC., a California Corporation;  
 DOMAINS BY PROXY, INC., an Arizona  
 Corporation; DOTSTER, INC., a Delaware  
 Corporation; MONIKER ONLINE SERVICES, LLC,  
 a Florida Limited Liability Company; PIXEL  
 STREAMED NETWORKING, LLC, a Hawaiian  
 Limited Liability Company; WHOIS PRIVACY  
 PROTECTION SERVICE, INC., a Washington  
 Corporation; and DOES 1 through 10, inclusive,

Defendants.

CASE NO.

**COMPLAINT FOR INJUNCTION  
 AND DAMAGES FOR:**

- (1) INFRINGEMENT OF TRADEMARK,
- (2) TRADEMARK DILUTION,
- (3) FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION,
- (4) CONTRIBUTORY TRADEMARK INFRINGEMENT,
- (5) CYBERSQUATTING IN VIOLATION OF 15 U.S.C. § 1125(d),
- (6) CYBERSQUATTING IN VIOLATION OF 15 U.S.C. § 1129,
- (7) CYBERSQUATTING IN VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17525,
- (8) COMMON LAW MISAPPROPRIATION OF LIKENESS, and
- (9) COMMERCIAL MISAPPROPRIATION OF LIKENESS UNDER CALIFORNIA CIVIL CODE § 3344,

**DEMAND FOR JURY TRIAL**

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COME NOW Plaintiffs, CHERILYN MCCARVER, an individual, and LANE ENTERTAINMENT, INC., a California Corporation (hereinafter collectively referred to as "Plaintiffs"), for their complaint against VIVID ENTERTAINMENT GROUP, LLC, a California Limited Liability Company; DIGITAL PLAYGROUND, INC., a California Corporation; DOMAINS BY PROXY, INC., an Arizona Corporation; DOTSTER, INC., a Delaware Corporation; MONIKER ONLINE SERVICES, LLC, a Florida Limited Liability Company; PIXEL STREAMED NETWORKING, LLC, a Hawaiian Limited Liability Company; WHOIS PRIVACY PROTECTION SERVICE, INC., a Washington Corporation; and DOES 1 through 10, inclusive, (hereinafter collectively referred to as "Defendants") allege as follows:

### **JURISDICTION AND VENUE**

1. This is an action involving claims of trademark infringement and unfair competition under the Lanham Act, 15 U.S.C. §1051 et seq., and claims under the common law and statutory law of the of the State of California. This Court has jurisdiction over Plaintiffs' federal claims pursuant to 15 U.S.C. §1121 and 28 U.S.C. §§ 1331 and 1338(a). This Court has jurisdiction over Plaintiffs' related claims based on state law pursuant to 28 U.S.C. § 1367.

2. Venue is proper under 28 U.S.C. 1391(b) because the defendants transact business in this Judicial District or are headquartered here, they solicit subscriptions to their services in this Judicial District in the course of using Plaintiffs' mark and because a substantial part of the events giving rise to Plaintiffs' claims arose here.

### **THE PARTIES**

3. Plaintiff, CHERILYN MCCARVER (hereinafter referred to as "MCCARVER"), also professionally and personally known as "Devinn Lane," is an individual and a citizen of West Virginia. MCCARVER was and is in the business of providing entertainment services in the form of, *inter alia*, personal appearances by a movie star, television celebrity, model and dancer; and in the form of providing an on-line global computer network web site featuring entertainment, graphics, pictures, photos and audio-visual works. MCCARVER has

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1 used and been using the pseudonym "Devin Lane" as her own name in commerce  
2 beginning as early as 1993.

3 4. Plaintiff, LANE ENTERTAINMENT, INC. (hereinafter referred to as "LANE  
4 ENTERTAINMENT"), previously incorporated as Trilane Productions, Inc., is a corporation  
5 organized and existing under the laws of California, with its principal place of business within  
6 the County of Los Angeles, California. LANE ENTERTAINMENT was and is in the business  
7 of providing entertainment services in the form of, *inter alia*, personal appearances by  
8 MCCARVER and in the form of providing an on-line global computer network web site  
9 featuring entertainment, graphics, pictures, photos and audio-visual works. LANE  
10 ENTERTAINMENT is the owner of United States Trademark Registration Number 2,565,432  
11 for the mark "Devin Lane," which was registered on April 20, 2002.

12 5. Plaintiffs are informed and believe, and thereon allege, that Defendant VIVID  
13 ENTERTAINMENT GROUP, LLC (hereinafter referred to as "VIVID") is a limited liability  
14 company organized and existing under the laws of the State of California, with its principal  
15 place of business at 3599 Cahuenga Boulevard West, Los Angeles, California, 90068.  
16 VIVID was and is in the business of producing, manufacturing, distributing and selling adult-  
17 oriented motion pictures. VIVID operates and/or provides the content for an adult-content  
18 web site located at [www.vivid.com](http://www.vivid.com). VIVID is directly and indirectly responsible for the  
19 wrongful conduct alleged herein, and on information and belief, has conspired with the other  
20 defendants to engage in such wrongful conduct.

21 6. Plaintiffs are informed and believe, and thereon allege, that Defendant DIGITAL  
22 PLAYGROUND, INC. (hereinafter referred to as "DIGITAL PLAYGROUND") is a California  
23 corporation organized and existing under the laws of the State of California, with its principal  
24 place at 16134 Hart Street, Van Nuys, California, 91406. DIGITAL PLAYGROUND was and  
25 is in the business of producing, manufacturing, distributing and selling adult-oriented motion  
26 pictures. DIGITAL PLAYGROUND operates and/or provides the content for an adult-content  
27 website located at [www.digitalplayground.com](http://www.digitalplayground.com). DIGITAL PLAYGROUND is directly and

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1 indirectly responsible for the wrongful conduct alleged herein, and on information and belief,  
2 has conspired with the other defendants to engage in such wrongful conduct.

3 7. Plaintiffs are informed and believe, and thereon allege, that Defendant  
4 DOMAINS BY PROXY, INC. (hereinafter "DOMAINS BY PROXY") is a corporation organized  
5 and existing under the laws of Arizona, having its principal place of business at 15111 North  
6 Hayden Road, Suite 160, Scottsdale, Arizona 85260. DOMAINS BY PROXY was and in the  
7 business of providing anonymous domain name registration for web sites on the Internet.

8 8. Plaintiffs are informed and believe, and thereon allege, that DOMAINS BY  
9 PROXY has numerous and regular contacts in California, advertises its products and  
10 services in California through its Internet web site, has sold and licensed its products and  
11 services in California, has entered into business contracts in California availing itself of  
12 California law, and has entered into contracts with numerous residents of California. This  
13 action arises, in part, from DOMAIN BY PROXY's contacts with California. DOMAINS BY  
14 PROXY is directly and indirectly responsible for the wrongful conduct alleged herein, and on  
15 information and belief, has conspired with the other defendants to engage in such wrongful  
16 conduct.

17 9. Plaintiffs are informed and believe, and thereon allege, that Defendant  
18 DOTSTER, INC., doing business as RevenueDirect (hereinafter referred to as "DOTSTER"),  
19 is a corporation organized and existing under the laws of Delaware, with its principal place  
20 of business at 8100 NE Parkway Drive, Suite 300, Vancouver, Washington, 98662.  
21 DOTSTER is a domain name monetization service provider, commonly referred to as an  
22 affiliate program. DOTSTER was and is in the business of helping owners of web site  
23 domain names exploit the value of the domain name by using it to generate and redirect  
24 traffic on the Internet.

25 10. Plaintiffs are informed and believe, and thereon allege, that DOTSTER has  
26 numerous and regular contacts in California, advertises its products and services in  
27 California through its Internet web site, has sold and licensed its products and services in  
28 California, has entered into business contracts in California availing itself of California law

1 and has entered in contracts with numerous residents of California. This action arises, in  
2 part, from DOTSTER's contacts with California. DOTSTER is directly and indirectly  
3 responsible for the wrongful conduct alleged herein, and on information and belief, has  
4 conspired with the other defendants to engage in such wrongful conduct.

5 11. Plaintiffs are informed and believe, and thereon allege, that Defendant  
6 MONIKER ONLINE SERVICES, LLC (hereinafter "MONIKER") is a limited liability company  
7 organized and existing under the laws of Florida, with its principal place of business at 20  
8 S.W. 27<sup>th</sup> Avenue, Suite 201, Pompano Beach, Florida, 33069. MONIKER was and in the  
9 business of providing domain name registration for web sites on the Internet.

10 12. Plaintiffs are informed and believe, and thereon allege, that MONIKER has  
11 numerous and regular contacts in California, advertises its products and services in  
12 California through its Internet web site, has sold and licensed its products and services in  
13 California, has entered into business contracts in California availing itself of California law,  
14 and has agents doing business in California. This action arises, in part, from MONIKER's  
15 contacts with California. MONIKER is directly and indirectly responsible for the wrongful  
16 conduct alleged herein, and on information and belief, has conspired with the other  
17 defendants to engage in such wrongful conduct.

18 13. Plaintiffs are informed and believe, and thereon allege, that Defendant PIXEL  
19 STREAMED NETWORKING, LLC (hereinafter "PIXEL") is a limited liability company  
20 organized and existing under the laws of Hawaii, with a principal place of business at 2051  
21 Young Street, Suite 33, Honolulu, Hawaii, 96826. PIXEL was and is in the business of digital  
22 media and Internet management.

23 14. Plaintiffs are informed and believe, and thereon allege that PIXEL has  
24 numerous and regular contacts in California, advertises its products and services in  
25 California through its Internet web site, has sold and licensed its products and services in  
26 California, has entered into business contracts in California availing itself of California law,  
27 and has agents doing business in California. This action arises, in part, from PIXEL's

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1 contacts with California. PIXEL is directly and indirectly responsible for the wrongful conduct  
2 alleged herein, and on information and belief, has conspired with the other defendants to  
3 engage in such wrongful conduct.

4 15. Plaintiffs are informed and believe, and thereon allege that Defendant WHOIS  
5 PRIVACY PROTECTION SERVICE, Inc. (hereinafter "PRIVACY PROTECT") is a corporation  
6 organized and existing under the laws of Washington, with a principal place of business at  
7 PMB 368, 14150 NE 20<sup>th</sup> Street - F1, Bellevue, Washington, 98007. PRIVACY PROTECT  
8 was and in the business of providing anonymous domain name registration for web sites on  
9 the Internet.

10 16. Plaintiffs are informed and believe, and thereon allege that Defendant  
11 PRIVACY PROTECT has numerous and regular contacts in California, advertises its  
12 products and services in California through its Internet web site, has sold and licensed its  
13 products and services in California, has entered into business contracts in California availing  
14 itself of California law, and has agents doing business in California. This action arises, in  
15 part, from PRIVACY PROTECT's contacts with California. PRIVACY PROTECT is directly  
16 and indirectly responsible for the wrongful conduct alleged herein, and on information and  
17 belief, has conspired with the other defendants to engage in such wrongful conduct.

18 17. The true names and capacities, whether individual, corporate, associate or  
19 otherwise, of defendants DOES 1 through 10 inclusive, are unknown to Plaintiffs, who  
20 therefore sue said defendants by such fictitious names. Plaintiffs will amend this Complaint  
21 to include their proper names and capacities when they have been ascertained. Plaintiffs  
22 are informed and believe, and based thereon allege, that each of the fictitiously named  
23 defendants participated in and are in some manner responsible for the acts described in this  
24 Complaint and damage resulting therefrom.

25 18. Plaintiffs allege on information and belief that each of the defendants named  
26 herein as DOES 1 through 10 inclusive, performed, participated in, or abetted in some  
27 manner, the acts alleged herein, proximately caused the damages alleged hereinbelow, and  
28 are liable to Plaintiffs for the damages and relief sought herein.

19. Plaintiffs allege on information and belief that, in performing the acts and omissions alleged herein, and at all times relevant hereto, each of the defendants was the agent and employee of each of the other defendants and was at all times acting within the course and scope of such agency and employment with the knowledge and approval of each of the other defendants.

## FACTUAL ALLEGATIONS

20. As early as 1993, Plaintiffs began using the name “Devinn Lane” in commerce in connection with Plaintiffs’ business. On April 30, 2002, Plaintiffs obtained a registered trademark from the United States Patent and Trademark Office (hereinafter “USPTO”) for the name “Devinn Lane,” United States Trademark Registration Number 2,565,432 for entertainment services, in International Class 041 (hereinafter referred to as the “Mark”). The Mark is inherently distinctive, as confirmed by the USPTO’s registration thereof. Trilane Entertainment, Inc. was the registered owner of this mark. Trilane Entertainment, Inc. has since legally changed its name to LANE ENTERTAINMENT, INC. MCCARVER is a licensee of the Mark.

21. The trademark registration provided Defendants constructive notice of Plaintiffs' claim of exclusive ownership of the Mark and constitutes prima facie evidence of the validity of the Mark, Plaintiffs' registration thereof and Plaintiffs' exclusive right to use and license said Mark in commerce in connection with MCCARVER's business of providing entertainment services in the form of, *inter alia*, personal appearances by a movie star, television celebrity, model and dancer, and in the form of providing an on-line global computer network web site featuring entertainment, graphics, pictures, photos and audio-visual works, as provided by Sections 7 and 22 of the Lanham Act, 15 U.S.C. §§ 1057 and 1072.

22. Plaintiffs have been using the Mark continuously and extensively since first adopting the Mark. Moreover, Plaintiffs have invested significant amounts of time, effort and resources to advertise and promote Plaintiffs' services under the Mark in interstate commerce throughout the United States and worldwide.

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23. As a result of Plaintiffs' continuous and extensive use of the Mark in such media as motion pictures, television, print, as well as live modeling and dancing, the public and those involved in the trade have come to identify the Mark with Plaintiffs in the United States and internationally. Thus, the Mark serves to identify the source of Plaintiffs' services and distinguishes Plaintiffs' goods and services from the goods and services of others.

24. By virtue of Plaintiffs' marketing efforts and expenditures, and as a result of the excellence of Plaintiffs' products, the Mark has achieved a distinctive and valuable reputation and degree of good will. In addition, the Mark has become famous, as MCCARVER is known in the United States and internationally as "Devin Lane." MCCARVER as "Devin Lane" has:

- a. performed as a feature adult entertainer in more than 70 adult films since 1999;
- b. directed approximately 17 adult films, including 5 volumes of an adult film titled "The Devin Lane Show;"
- c. written and directed on several adult films, including one for which she was nominated for the AVN Best Gonzo Release award;
- d. produced 2 adult films, including one for which she was nominated for the AVN Award Best All-Girl Feature;
- e. been nominated in for Best New Starlet at the Hot D'Or Awards and has been nominated for several AVN Awards including Best Actress (twice), Female Performer of the Year (twice) and Best Supporting Actress (twice); to date she has won 2 AVN Awards for Best Actress and Best Solo Sex Scene;
- f. entered into an exclusive performance contract for the prestigious adult production company Wicked Pictures; such exclusive contracts are generally entered into with the express purpose of bringing an adult star into superstardom;
- g. hosted and continues to host a show on Playboy TV and has appeared in several softcore films which appear on DVD and on the Cinemax channels;

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- 1 h. appeared in mainstream publications including TV Guide, LA Times, LA
- 2 Weekly, OC Weekly, Stuff, Premiere, Nylon and While You Were Sleeping;
- 3 i. appeared on the cover and in the centerfolds of famous men's magazines
- 4 including Penthouse;
- 5 j. acted in the mainstream motion picture titled "The Girl Next Door;"
- 6 k. given college lectures on human sexuality including as a featured guest
- 7 speaker at Yale University;
- 8 l. appeared on the nationally syndicated radio talk-show and television show
- 9 "The Howard Stern Radio Show" as well as on various other television shows;
- 10 m. starred in several seasons of the celebrated Playboy TV series 7 Lives
- 11 Xposed;
- 12 n. modeled for the Mercedes Benz lifestyle magazine Benzo; and
- 13 o. worked as a spokesmodel for Third Rail Clothing.

14 25. On or about March 15, 2005, DOMAINS BY PROXY registered the web site  
15 domain name www.devinlanexxx.com. Plaintiffs are informed and believe, and thereon  
16 allege, that www.devinlanexxx.com is owned, operated and controlled by DOMAINS BY  
17 PROXY.

18 26. It or about late 2007, MCCARVER discovered that www.devinlanexxx.com was  
19 registered by DOMAINS BY PROXY and further that the web site was redirecting traffic to  
20 www.kim1.vivid.com, a web site and domain name owned, operated and controlled by VIVID.  
21 Plaintiffs are informed and believe that VIVID willfully conspired with DOMAINS BY PROXY  
22 to unlawfully use the Mark in order to promote, identify and divert customer traffic to  
23 www.kim1.vivid.com.

24 27. In or about January 2008, www.devinlanexxx.com stopped redirecting traffic  
25 to www.kim1.vivid.com and began displaying a web page containing advertising listings and  
26 hypertext links to a number of adult web sites on the Internet (hereinafter "Parking Page 1").  
27 Plaintiffs are informed and believe, and thereon allege, that Parking Page 1 is owned,  
28 operated and controlled by DOTSTER. Plaintiffs are informed and believe, and thereon

1 allege, that when a visitor to www.devinlanexxx.com access one of said links, revenue is  
2 generated for DOTSTER and DOMAINS BY PROXY. Plaintiffs are informed and believe that  
3 DOTSTER and DOMAINS BY PROXY willfully conspired with each other to unlawfully use  
4 the Mark in order to promote, identify and divert customer traffic to various other web sites.

5 28. In or about February of 2008, www.devinlanexxx.com stopped displaying  
6 Parking Page 1 and began redirecting traffic to www.digitalplayground.com, a web site and  
7 domain name owned, operated and controlled by DIGITAL PLAYGROUND. Plaintiffs are  
8 informed and believe that VIVID willfully conspired with DOMAINS BY PROXY, DIGITAL  
9 PLAYGROUND and DOE 1 to unlawfully use the Mark in order to promote, identify and  
10 divert customer traffic to www.digitalplayground.com.

11 29. Thereafter www.devinlanexxx.com stopped redirecting traffic to  
12 www.digitalplayground.com and resumed display of Parking Page 1, which continues to be  
13 displayed as of the date of the filing of this Complaint.

14 30. On or about July 11, 2007, MONIKER registered the web site domain name  
15 www.devinlane.org. Plaintiffs are informed and believe, and thereon allege, that  
16 www.devinlane.org is owned, operated and controlled by MONIKER.

17 31. On or about July 17, 2006, MONIKER registered the web site domain name  
18 www.devin-lane.org. Plaintiffs are informed and believe, and thereon allege, that  
19 www.devin-lane.org is owned, operated and controlled by MONIKER.

20 32. The web sites www.devin-lane.org and www.devinlane.org both redirect to  
21 a web page featuring adult-entertainment content. Plaintiffs are informed and believe that  
22 MONIKER and DOE 2 have willfully conspired with each other to unlawfully use the Mark in  
23 order to promote, identify and divert customer traffic to the web site and/or sites owned,  
24 operated and/or controlled by DOE 2

25 33. On or about May 5, 2003, PIXEL registered the web site domain name  
26 www.devin-lane.com. Plaintiffs are informed and believe, and thereon allege, that  
27 www.devin-lane.com is owned, operated and controlled by PIXEL. This web site currently  
28 displays a web page containing advertising listings and hypertext links to a number of adult

1 web sites on the Internet (hereinafter "Parking Page 2"). Plaintiffs are informed and believe,  
2 and thereon allege, that Parking Page 2 is owned, operated and controlled by PIXEL.  
3 Plaintiffs are informed and believe, and thereon allege, that when a visitor to  
4 www.devinlanexxx.com access one of said links, revenue is generated for PIXEL. Plaintiffs  
5 are informed and believe that PIXEL is willfully engaged in unlawful use the Mark in order  
6 to promote, identify and divert customer traffic to various other web sites.

7 34. On or about April 13, 2007, PRIVACY PROTECT registered the web site  
8 domain name www.devinlanecash.com. Plaintiffs are informed and believe, and thereon  
9 allege, that www.devinlanecash.com is owned, operated and controlled by PRIVACY  
10 PROTECT.

11 35. Defendants' conduct as alleged herein is likely to cause confusion in the  
12 marketplace. Defendants' conduct has caused and will cause actual and potential customers  
13 of Plaintiffs to believe that Defendants and their goods and services are somehow affiliated  
14 with, sponsored by, endorsed by or related to Plaintiffs.

15 36. Defendants' registration and redirection of web sites containing the Mark is a  
16 deliberate attempt to trade on Plaintiffs' goodwill and the prestige and reputation of Plaintiffs'  
17 and their products and services. Defendants' conduct has caused, and will continue to  
18 cause, significant damages, including lost sales and profits, and irreparable harm to  
19 Plaintiffs. Moreover, Defendants' conduct has caused and will cause significant harm to  
20 Plaintiffs' reputation and goodwill, as well as the reputation and goodwill of Plaintiffs' Mark,  
21 which Plaintiffs have established through years of effort and expense.

22 37. Plaintiffs are informed and believe, and thereon allege, that Defendants'  
23 conduct will continue unless enjoined by this Court.

24 38. Collectively, www.devinlanexxx.com, www.devin-lane.org,  
25 www.devinlane.org, www.devin-lane.com and www.devinlanecash.com are hereinafter  
26 referred to as the "Infringing Sites." Third parties are able to reach the Infringing Sites via  
27 Internet searches or by simply typing in the domain name in an Internet browser. Because

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1 Plaintiffs' Mark is well known and famous, Defendants' use of the Mark results in substantial  
2 Internet traffic.

3 39. Plaintiffs are informed and believe that Defendants are using the Mark  
4 deliberately and intentionally in order to drive consumers to the Infringing Sites and other  
5 web sites, and to capture and trade on the goodwill and notoriety of the Mark. Defendants'  
6 use of the Mark constitutes a commercial use in interstate commerce.

7 40. Defendants have infringed the Mark and/or induced infringement of the Mark,  
8 by using the domain names of the Infringing Sites and otherwise using the Mark in  
9 connection with their operation of other infringing web sites. Plaintiffs are informed and  
10 believe that Defendants are selling advertising on the Infringing Sites, including hyperlinks  
11 to other Internet merchants, and primarily those of an adult nature. By these acts,  
12 Defendants are profiting from the diversion of traffic and harming the value of the Mark.

13 41. The Mark was distinctive and famous before and at the time Defendants  
14 registered the domain names of the Infringing Sites and infringed on Plaintiffs' Mark.

### 15 **FIRST CAUSE OF ACTION**

#### 16 **(Trademark Infringement Under 15 U.S.C. § 1114 - Against All Defendants)**

17 42. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through  
18 41, inclusive, and incorporate them herein by this reference.

19 43. On July 6, 2001, Plaintiffs filed an application to register the mark "Devinn  
20 Lane" on the Principal Register of the United States Patent and Trademark Office.

21 44. On April 30, 2002, U.S. Registration No. 2,565,432 (attached hereto as Exhibit  
22 "A") was duly and legally issued to Plaintiffs for "Devinn Lane" for personal appearances by  
23 a movie star, television celebrity, model and dancer, and in the form of providing an on-line  
24 global computer network web site featuring entertainment, graphics, pictures, photos and  
25 audio-visual works. The Mark identifies a living individual, namely MCCARVER, and  
26 MCCARVER uses to Mark to identify herself in providing each and every service indicated  
27 herein. The Mark has become uniquely associated with, and hence identifies, Plaintiffs as

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1 the source of high quality entertainment services and related products. The Mark is arbitrary  
2 and fanciful.

3 45. Plaintiffs own the trademark to "Devinn Lane" which appears in the top-level  
4 domain name of the Infringing Sites as well as being prominently displayed on the Infringing  
5 Sites. In using the Mark in this manner, Defendants are making commercial use of the Mark  
6 in interstate commerce, and as such are intentionally and willfully infringing Plaintiffs' Mark  
7 under an identical mark without consent or authority from Plaintiffs.

8 46. Defendants' actions and use of the Mark are intended to and are likely to cause  
9 confusion, to cause mistake, and to deceive consumers and the general public into believing,  
10 initially and otherwise, that the services and products Defendants are selling are actually  
11 produced, endorsed by and/or in association with Plaintiffs.

12 47. Defendants' use of Plaintiffs' registered trademark in connection with the  
13 Infringing Sites trades off the quality, reputation and goodwill established by Plaintiffs and  
14 violates the Lanham Act, 15 U.S.C. §1114.

15 48. As a result of Defendants' infringing actions alleged herein, Plaintiffs have  
16 incurred and will continue to incur significant damages in an amount to be proven at trial  
17 consisting of, *inter alia*, lost sales and profits, actual diversion of trade and diminution in the  
18 value of the reputation and goodwill associated with the Mark, and irreparable harm to  
19 Plaintiffs. Such damages should be assessed at up to three times the amount determined  
20 at trial, pursuant to 15 U.S.C. § 1117(a). Plaintiffs are also entitled to Defendants' profits  
21 pursuant to 15 U.S.C. § 1117(a).

22 49. Further irreparable harm to Plaintiffs is imminent as a result of Defendants'  
23 conduct, and Plaintiffs are without an adequate remedy at law. Plaintiffs are entitled to an  
24 injunction restraining Defendants, their officers, directors, agents, employees,  
25 representatives and all persons acting with them from engaging in or in furtherance of such  
26 acts of trademark infringement and requiring that Defendants remove the infringing mark  
27 from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation  
28 thereof.

1           50. Such conduct by Defendants has been deliberate, willful, fraudulent and  
2 constitutes a knowing violation of Plaintiffs' trademark rights, thus rendering this an  
3 "exceptional case" entitling Plaintiffs to attorney's fees under 15 U.S.C. § 1117(a).

4                                   **SECOND CAUSE OF ACTION**

5           **(Federal Trademark Dilution Under 15 U.S.C. §1125(c) - Against All Defendants)**

6           51. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through  
7 50, inclusive, and incorporate them herein by this reference.

8           52. Plaintiffs' Mark is distinctive and famous in the minds of the relevant public  
9 within the meaning of the Federal Trademark Dilution Act of 1995, 15 U.S.C. §1125(c), and  
10 has been famous since before Defendants' began using the Mark.

11           53. Defendants are making commercial use of the famous Mark in interstate  
12 commerce and are marketing to the same consumers as Plaintiffs.

13           54. Defendants' activities as alleged herein constitute dilution of the distinctive  
14 quality of Plaintiffs' Mark and tarnishment of the reputation of the Mark in violation of the  
15 Federal Trademark Dilution Act of 1995, 15 U.S.C. §1125(c).

16           55. Plaintiffs are informed and believe, and thereon allege, that Defendants intend  
17 to willfully trade on the reputation of Plaintiffs and Plaintiffs Mark, and cause dilution of the  
18 Mark by implying an association between Plaintiffs and Defendants when none exists.

19           56. As a result of Defendants' actions, Plaintiffs have suffered and continue to  
20 suffer damages in an amount to be determined at trial. Such damages should be assessed  
21 at up to three times the amount determined at trial, pursuant to 15 U.S.C. §§ 1125(c)(5) and  
22 1117(a). Plaintiffs are also entitled to any damages sustained by Plaintiffs and Defendants'  
23 profits pursuant to 15 U.S.C. § 1117(a).

24           57. Defendants' actions have caused Plaintiffs harm for which they have no  
25 adequate remedy at law which will be irreparable if Defendants are not enjoined from  
26 continuing the conduct alleged herein. Accordingly, Defendants should be enjoined from  
27 using the Infringing Sites or any confusingly similar variation thereof. Plaintiffs are entitled  
28 to injunctive relief pursuant to 15 U.S.C. § 1117(a) as set forth in 15 U.S.C. § 1125(c).

58. Plaintiffs are informed and believe that such conduct by Defendants is deliberate, willful, fraudulent and constitutes a knowing violation of Plaintiffs' trademark rights, thus rendering this an "exceptional case" entitling Plaintiffs to attorney's fees under 15 U.S.C. § 1117(a).

59. Because Defendants willfully intended to trade on Plaintiffs' reputation and goodwill or to cause dilution of Plaintiffs' famous trademark, Plaintiff is entitled to damages, extraordinary damages, fees and costs pursuant to 15 U.S.C. §1117(a).

### THIRD CAUSE OF ACTION

**(FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION - Against All Defendants)**

60. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 59, inclusive, and incorporate them herein by this reference.

61. Defendants use of Plaintiffs' Mark in interstate commerce as alleged herein gives the false and misleading impression that Plaintiffs authorized said usage. Defendants are making commercial use of the famous Mark in interstate commerce and are marketing to the same consumers as Plaintiffs under a false designation of origin.

62. Defendants' use of Plaintiffs' Mark is likely to cause likely to cause confusion, mistake and/or deception as to (a) the affiliation, connection and/or association of Defendants with Plaintiffs, and (b) as to the origin, sponsorship, endorsement and/or approval of Defendants' goods, services and/or commercial activities by Plaintiffs.

63. Further irreparable harm to Plaintiffs is imminent as a result of Defendants' conduct and Plaintiffs are without an adequate remedy at law. Plaintiffs are entitled to an injunction restraining Defendants, their officers, directors, agents, employees, representatives and all persons acting with them from engaging in or in furtherance of such acts of trademark infringement and requiring that Defendants remove the infringing mark from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation thereof.

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64. As a result of Defendants' actions, Plaintiffs have suffered and continue to suffer damages in an amount to be determined at trial. Such damages should be assessed at up to three times the amount determined at trial, pursuant to 15 U.S.C. § 1117(a). Plaintiffs are also entitled to Defendants' profits made as a result of their improper and illegal activities pursuant to 15 U.S.C. § 1117(a).

65. Plaintiffs are informed and believe that such conduct by Defendants is deliberate, willful, fraudulent and constitutes a knowing violation of Plaintiffs' trademark rights, thus rendering this an "exceptional case" entitling Plaintiffs to attorney's fees under 15 U.S.C. § 1117(a).

#### FOURTH CAUSE OF ACTION

**(CONTRIBUTORY TRADEMARK INFRINGEMENT - Against all Defendants)**

66. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 65, inclusive, and incorporate them herein by this reference.

67. Plaintiffs are informed and believe that Defendants, and each of them, know of the Infringing Sites, know the Infringing Sites infringe the Mark and that the Infringing Sites result in increased business for Defendants due to, *inter alia*, increased Internet traffic generated from the Infringing Sites.

68. Plaintiffs are informed and believe that Defendants entered into formal written contracts with the Infringing Sites, establishing them as a formal affiliate. These contracts grant Defendants the right to directly control and/or monitor content on the Infringing Sites, including the right to monitor and/or control any trademark violations.

69. By providing the Infringing Sites with money and/or advertising links and/or connections to an extensive network of advertisers on the Internet, Defendants substantially support, encourage and contribute to the infringement of Plaintiffs' Mark.

70. Plaintiffs are informed and believe, and thereon allege, that Defendants, and each of them, knowingly induced acts of direct infringement of the Mark by explicitly and/or implicitly suggesting such infringing acts as alleged herein. Further, Defendants, and each of them, have continued and are continuing to profit from Internet traffic on the Infringing

1 Sites and knows or has reason to know that the Infringing Sites, and the profits generated  
2 therefrom, result from the infringement of Plaintiffs' Mark.

3 71. Therefore, in addition to directly infringing Plaintiffs' trademark, Defendants are  
4 liable for contributory infringement of Plaintiffs' trademark under 15 U.S.C. §§1114 and 1125.

5 72. Defendants' actions and use of the Mark are intended to and are likely to cause  
6 confusion, to cause mistake, and to deceive consumers and the general public into believing,  
7 initially and otherwise, that the services and products Defendants are selling are actually  
8 produced or endorsed by, or in association with, Plaintiffs.

9 73. Defendants' use of Plaintiffs' registered trademark in connection with the  
10 Infringing Sites trades off the quality, reputation or goodwill established by Plaintiffs and  
11 violates the Lanham Act, 15 U.S.C. §1114.

12 74. As a result of Defendants' infringing actions as herein alleged, Plaintiffs have  
13 incurred and will continue to incur significant damages in an amount to be proven at trial,  
14 consisting of, among other things, lost sales and profits, actual diversion of trade and  
15 diminution in the value of the reputation goodwill associated with the Mark, and irreparable  
16 harm to Plaintiffs. Such damages should be assessed at up to three times the amount  
17 determined at trial, pursuant to 15 U.S.C. § 1117(a). Plaintiffs are also entitled to  
18 Defendants' profits pursuant to 15 U.S.C. § 1117(a).

19 75. Further irreparable harm to Plaintiffs is imminent as a result of Defendants'  
20 conduct, and Plaintiffs are without an adequate remedy at law. Plaintiffs are entitled to an  
21 injunction restraining Defendants, their officers, directors, agents, employees,  
22 representatives and all persons acting with them from engaging in or in furtherance of such  
23 acts of trademark infringement and requiring that Defendants remove the infringing mark  
24 from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation  
25 thereof.

26 76. Such conduct by Defendants has been deliberate, willful, fraudulent and  
27 constitutes a knowing violation of Plaintiffs' trademark rights, thus rendering this an  
28 "exceptional case" entitling Plaintiffs to attorney's fees under 15 U.S.C. § 1117(a).

**FIFTH CAUSE OF ACTION**

**(CYBERSQUATTING IN VIOLATION OF 15 U.S.C. § 1125(d) - Against All Defendants)**

77. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 76, inclusive, and incorporate them herein by this reference.

78. Defendants, and each of them, have registered, trafficked in and/or used the domain names of the Infringing Sites as alleged herein

79. The domain names of the Infringing Sites are identical to and confusingly similar to the Mark. In addition, the domain names of the Infringing Sites are dilutive of the Mark which is famous.

80. The Mark was distinctive and famous at the time Defendants registered the domain names of the Infringing Sites.

81. The domain names of the Infringing Sites, *inter alia*, consists of the name "Devin Lane" which is commonly used to identify MCCARVER. By using said domain names, Defendants intended to divert customers from Plaintiffs' own online location for commercial gain and/or with the intent to tarnish or disparage the Mark by creating a likelihood of confusion as to the source, sponsorship, affiliation and/or endorsement of the Infringing Sites. Defendants know said domain names are identical to and confusingly similar to the Mark and have used the Infringing Sites without regard to the goods or services of Plaintiffs.

82. By means of the aforesaid actions, Defendants have harmed and will continue to harm the goodwill Plaintiffs have built for the Mark.

83. Defendants, and each of them, have committed the aforesaid acts with a bad faith to intent to profit from Plaintiffs' Mark.

84. As a result of Defendants' infringing actions as herein alleged, Plaintiffs have incurred and will continue to incur significant damages in an amount to be proven at trial, consisting of, among other things, lost sales and profits, actual diversion of trade and diminution in the value of the reputation goodwill associated with the Mark, and irreparable harm to Plaintiffs. Such damages should be assessed at up to three times the amount

1 determined at trial, pursuant to 15 U.S.C. § 1117(a). Plaintiffs are also entitled to  
2 Defendants' profits pursuant to 15 U.S.C. § 1117(a).

3 85. Further irreparable harm to Plaintiffs is imminent as a result of Defendants'  
4 conduct, and Plaintiffs are without an adequate remedy at law. Plaintiffs are entitled to an  
5 injunction restraining Defendants, their officers, directors, agents, employees,  
6 representatives and all persons acting with them from engaging in or in furtherance of such  
7 acts of trademark infringement and requiring that Defendants remove the infringing mark  
8 from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation  
9 thereof.

10 86. Such conduct by Defendants has been deliberate, willful, fraudulent and  
11 constitutes a knowing violation of Plaintiffs' trademark rights, thus rendering this an  
12 "exceptional case" entitling Plaintiffs to attorney's fees under 15 U.S.C. § 1117(a).

13 87. In addition, Plaintiffs may elect, at any time before final judgement is rendered  
14 by the trial court, to recover, instead of actual damages and profits, an award of statutory  
15 damages in the amount of not less than \$1,000.00 and not more than \$100,000.00 per  
16 domain name, as the court considers just pursuant to 15 U.S.C. § 1117(d).

17 **SIXTH CAUSE OF ACTION**

18 **(CYBERSQUATTING IN VIOLATION OF 15 U.S.C § 1129 - Against All Defendants)**

19 88. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through  
20 87, inclusive, and incorporate them herein by this reference.

21 89. Without Plaintiffs' consent, Defendants have registered the domain names of  
22 the Infringing Sites, which consist of and/or are confusingly similar to the name "Devin  
23 Lane" which MCCARVER uses to identify herself as a living person.

24 90. Plaintiffs are informed and believe, and thereon alleged, that Defendants have  
25 committed the aforesaid acts with the specific intent to profit from MCCARVER's name by  
26 selling the domain name for financial gain to a third party.

27 91. Further irreparable harm to Plaintiffs is imminent as a result of Defendants'  
28 conduct, and Plaintiffs are without an adequate remedy at law. Plaintiffs are entitled to an

1 injunction restraining Defendants, their officers, directors, agents, employees,  
 2 representatives and all persons acting with them from engaging in or in furtherance of such  
 3 acts of trademark infringement and requiring that Defendants remove the infringing mark  
 4 from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation  
 5 thereof. Further, Plaintiffs are entitled to and seek injunctive relief transferring the domain  
 6 names of the Infringing Sites to Plaintiffs pursuant to 15 U.S.C. § 1129(2).

7 92. In addition, Plaintiffs seek costs and attorney's fees pursuant to 15 U.S.C. §  
 8 1129(2).

### 9 **SEVENTH CAUSE OF ACTION**

#### 10 **(CYBERSQUATTING IN VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS**

#### 11 **CODE § 17525 - Against All Defendants)**

12 93. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through  
 13 92, inclusive, and incorporate them herein by this reference.

14 94. Defendants, and each of them, have registered, trafficked in and/or used the  
 15 domain names of the Infringing Sites as alleged herein.

16 95. The domain names of the Infringing Sites consists of and/or are confusingly  
 17 similar to the name "Devinn Lane" which MCCARVER uses as her personal name.

18 96. The domain names of the Infringing Sites, *inter alia*, consists of the name  
 19 "Devinn Lane" which is commonly used to identify MCCARVER. By using said domain  
 20 names, Defendants intended to, and continue to intend to, divert customers from Plaintiffs'  
 21 own online location for commercial gain and/or with the intent to tarnish or disparage the  
 22 Mark by creating a likelihood of confusion as to the source, sponsorship, affiliation and/or  
 23 endorsement of the Infringing Sites. Defendants know said domain names are identical to  
 24 or confusingly similar to the Mark and have used the Infringing Sites without regard to the  
 25 goods or services of Plaintiffs.

26 97. By means of the aforesaid actions, Defendants have harmed and will continue  
 27 to harm the goodwill Plaintiffs have built for the Mark.

28 ///

98. Defendants, and each of them, have committed the aforesaid acts with a bad faith to intent to profit from Plaintiffs' Mark.

99. As a result of Defendants' infringing actions as herein alleged, Plaintiffs have incurred and will continue to incur significant damages in an amount to be proven at trial, consisting of, among other things, lost sales and profits, actual diversion of trade and diminution in the value of the reputation goodwill associated with the Mark, and irreparable harm to Plaintiffs.

100. Further irreparable harm to Plaintiffs is imminent as a result of Defendants' conduct, and Plaintiffs are without an adequate remedy at law. Plaintiff are entitled to and seek an injunction restraining Defendants, their officers, directors, agents, employees, representatives and all persons acting with them from engaging in or in furtherance of such acts of trademark infringement and requiring that Defendants remove the infringing mark from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation thereof. Further, Plaintiffs seek injunctive relief transferring the domain names of the Infringing Sites to Plaintiffs.

## EIGHTH CAUSE OF ACTION

**(COMMON LAW MISAPPROPRIATION OF LIKENESS - Against All Defendants)**

101. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 100, inclusive, and incorporate them herein by this reference.

102. As alleged herein, Defendants, and each of them, have invaded MCCARVER's right to privacy by using MCCARVER's identity, including without limitation her name, likeness and/or personality, in the top-level domains of and within the Infringing Sites. In doing so, Defendants, and each of them, have knowingly appropriated MCCARVER's name and/or likeness for Defendants' advantage, commercially and/or otherwise. Said appropriation was unauthorized and done without Plaintiffs' consent. Plaintiffs are informed and believe that by use of said appropriation, Defendants have earned increased revenue.

103. As a proximate result of the above misappropriation, MCCARVER suffered loss of reputation and standing in the community, all of which caused her humiliation,

1 embarrassment, hurt feelings, mental anguish and suffering, all to her general damage in an  
2 amount according to proof.

3 104. As a further proximate result of the above-mentioned misappropriation,  
4 MCCARVER has suffered injury to her business in the form of lost internet traffic and  
5 revenue, all to her special damage in an amount according to proof.

6 105. Defendants' misappropriation, as alleged above, was oppressive and malicious  
7 within the meaning of Civil Code Section 3294 in that it subjected MCCARVER to cruel and  
8 unjust hardship in willful and conscious disregard of MCCARVER's rights and safety, thereby  
9 entitling MCCARVER to an award of punitive damages.

10 106. Further irreparable harm to MCCARVER is imminent as a result of Defendants'  
11 conduct, and MCCARVER is without an adequate remedy at law. MCCARVER is entitled to  
12 an injunction restraining Defendants, their officers, directors, agents, employees,  
13 representatives and all persons acting with them from engaging in or in furtherance of such  
14 acts of misappropriation.

15 **NINTH CAUSE OF ACTION**

16 **(COMMERCIAL MISAPPROPRIATION OF LIKENESS UNDER CALIFORNIA CIVIL**  
17 **CODE §3344 - Against All Defendants)**

18 107. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through  
19 106, inclusive, and incorporate them herein by this reference.

20 108. As alleged herein, Defendants, and each of them, have invaded MCCARVER's  
21 right to privacy by using MCCARVER's name, likeness and/or photograph(s) in the top-level  
22 domains of and within the Infringing Sites. In doing so, Defendants, and each of them, have  
23 knowingly appropriated MCCARVER's name and/or likeness for Defendants' advantage in  
24 direct connection with advertising and commercial sales. Said appropriation was  
25 unauthorized and done without Plaintiffs' consent. Plaintiffs are informed and believe that  
26 Defendants have earned increased revenue by said appropriation.

27 109. As a proximate result of the above misappropriation, MCCARVER suffered loss  
28 of reputation and standing in the community, all of which caused her humiliation,



1 embarrassment, hurt feelings, mental anguish and suffering, all to her general damage in an  
2 amount according to proof.

3 110. As a further proximate result of the above-mentioned misappropriation,  
4 MCCARVER has suffered injury to her business in the form of lost internet traffic and  
5 revenue, all to her special damage in an amount according to proof.

6 111. Defendants' misappropriation, as alleged above, was oppressive and malicious  
7 within the meaning of Civil Code Section 3294 in that they subjected MCCARVER to cruel  
8 and unjust hardship in willful and conscious disregard of MCCARVER's rights and safety,  
9 thereby entitling MCCARVER to an award of punitive damages.

10 112. Further irreparable harm to MCCARVER is imminent as a result of Defendants'  
11 conduct, and MCCARVER is without an adequate remedy at law. MCCARVER is entitled to  
12 an injunction restraining Defendants, their officers, directors, agents, employees,  
13 representatives and all persons acting with them from engaging in or in furtherance of such  
14 acts of misappropriation.

### 15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as  
17 follows:

- 18 1. Actual compensatory damages in an amount according to proof at trial;
- 19 2. Special compensatory damages in an amount according to proof at trial;
- 20 3. That the Court's award of actual damages to Plaintiffs be trebled pursuant to  
21 15 U.S.C. § 1117(a);
- 22 4. Punitive damages as to the Eighth and Ninth Causes of Action;
- 23 5. Disgorgement of all gains, profits and advantages derived by Defendants from  
24 their acts of unfair competition, infringement, violations of the Plaintiffs' right  
25 to privacy and other violations of law;
- 26 6. Costs of suit including reasonable attorneys fees;
- 27 7. For prejudgment interest at the maximum legal rate;

28 ///

1 8. Injunctive relief against Defendants, their officers, agents, servants,  
2 representatives employees, attorney, parents, subsidiaries, related companies,  
3 partners, successors, predecessors, assigns, and all persons acting for, with,  
4 by, through, or under them, and each of them, preliminarily and thereafter  
5 permanently enjoined and restrained from:

- 6 a. Using in any manner the Mark, the Infringing Sites or any other  
7 term or terms likely to cause confusion with the Mark in a domain  
8 name or in connection with other words as a trademark, trade  
9 name or otherwise, to market, advertise or identify any of  
10 Defendants' web sites, goods, services and products;  
11 b. Using the Mark or any other mark or word similar to the Mark in  
12 a manner that is likely to cause dilution, confusion, or mistake or  
13 to deceive;  
14 c. Otherwise infringing the Mark;  
15 d. Unfairly competing with Plaintiffs in any manner whatsoever; and  
16 e. Causing likelihood of confusion or injury to business reputation of  
17 the Mark;  
18 f. Ordering Defendants to promptly transfer the domain names of the  
19 Infringing Sites to Defendants;

20 9. For such other and further relief as the Court deems just and proper.

21  
22 Dated: October 9, 2008

LAW OFFICES OF FATTOROSI & CHISVIN

23  
24 By 

25 Michael W. Fattorosi, Attorney for Plaintiffs,  
26 CHERILYN MCCARVER, an individual, and  
27 LANE ENTERTAINMENT, INC., a California  
28 Corporation

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial pursuant to F.R.Civ.P. 38(b) and Local Central District Rule 38-1.

Dated: October 9, 2008

LAW OFFICES OF FATTOROSI & CHISVIN

By: 

Michael W. Fattorosi, Attorney for Plaintiffs,  
CHERILYN MCCARVER, an individual, and  
LANE ENTERTAINMENT, INC., a California  
Corporation

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EXHIBIT "A"



## United States Patent and Trademark Office

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## Typed Drawing

<b>Word Mark</b>	DEVINN LANE
<b>Goods and Services</b>	IC 041. US 100 101 107. G & S: ENTERTAINMENT SERVICES, NAMELY, PERSONAL APPEARANCES BY A MOVIE STAR, TELEVISION CELEBRITY, MODEL, AND DANCER; ENTERTAINMENT SERVICES, NAMELY, PROVIDING AN ON-LINE GLOBAL COMPUTER NETWORK WEBSITE FEATURING ENTERTAINMENT GRAPHICS, PICTURES, PHOTOS, AND AUDIO-VISUAL WORKS. FIRST USE: 19931101. FIRST USE IN COMMERCE: 19931101
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	78072735
<b>Filing Date</b>	July 6, 2001
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	February 5, 2002
<b>Registration Number</b>	2565432
<b>Registration Date</b>	April 30, 2002
<b>Owner</b>	(REGISTRANT) TRILANE PRODUCTIONS, INC. CORPORATION CALIFORNIA 12722 RIVERSIDE DRIVE SUITE 204 NORTH HOLLYWOOD CALIFORNIA 916073393  (LAST LISTED OWNER) LANE ENTERTAINMENT, INC. CORPORATION CALIFORNIA 12722 RIVERSIDE DRIVE SUITE 204 NORTH HOLLYWOOD CALIFORNIA 916073393
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	MICHAEL W. FATTOROSI
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR).

**Other Data** The name "DEVINN LANE" identifies a living individual whose consent is of record.

**Live/Dead  
Indicator** LIVE

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Dean D. Pregerson and the assigned discovery Magistrate Judge is Frederick F. Mumm.

The case number on all documents filed with the Court should read as follows:

**CV08- 6739 DDP (FFMx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



Michael W. Fattorosi, Esq., Calif. State Bar # 193538  
 Craig L. Chisvin, Esq., Calif. State Bar #191825  
 LAW OFFICES OF FATTOROSI & CHISVIN  
 6300 Canoga Ave. #550, Woodland Hills, CA 91367  
 Tel: 818-881-8500, Fax: 818-881-9008

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

CHERILYN MCCARVER, an individual, and LANE  
 ENTERTAINMENT, INC., a California Corporation  
 PLAINTIFF(S)

v.

VIVID ENTERTAINMENT GROUP, LLC, a California Limited Liability Company; DIGITAL  
 PLAYGROUND, INC., a California Corporation; DOMAINS BY PROXY, INC., an Arizona  
 Corporation; DOTSTER, INC., a Delaware Corporation; MONIKER ONLINE SERVICES,  
 LLC, a Florida Limited Liability Company; PIXEL STREAMED NETWORKING, LLC, a  
 Hawaiian Limited Liability Company; WHOIS PRIVACY PROTECTION SERVICE, INC., a  
 Washington Corporation; and DOES 1 through 10, inclusive,

DEFENDANT(S).

CASE NUMBER

CV 08 - 06739

DDP (FFM)

SUMMONS

TO: DEFENDANT(S): —

VIVID ENTERTAINMENT GROUP, LLC, a California Limited Liability Company; DIGITAL  
 PLAYGROUND, INC., a California Corporation; DOMAINS BY PROXY, INC., an Arizona  
 Corporation; DOTSTER, INC., a Delaware Corporation; MONIKER ONLINE SERVICES,  
 LLC, a Florida Limited Liability Company; PIXEL STREAMED NETWORKING, LLC, a  
 Hawaiian Limited Liability Company; WHOIS PRIVACY PROTECTION SERVICE, INC., a  
 Washington Corporation; and DOES 1 through 10, inclusive,

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you  
 must serve on the plaintiff an answer to the attached ☒ complaint ☐ \_\_\_\_\_ amended complaint  
☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer  
 or motion must be served on the plaintiff's attorney, Michael W. Fattorosi, whose address is  
6300 Canoga Avenue, Suite 550, Woodland Hills, CA 91367. If you fail to do so,  
 judgment by default will be entered against you for the relief demanded in the complaint. You also must file  
 your answer or motion with the court.

Clerk, U.S. District Court

OCT 14 2008

Dated: \_\_\_\_\_

LA'REE HORN

By: \_\_\_\_\_

Deputy Clerk



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed  
 60 days by Rule 12(a)(3)].

1192

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) CHERILYN MCCARVER, an individual, and LANE ENTERTAINMENT, INC., a California Corporation	<b>DEFENDANTS</b> VIVID ENTERTAINMENT GROUP, LLC, a California Limited Liability Company; DIGITAL PLAYGROUND, INC., a California Corporation; DOMAINS BY PROXY, INC., an Arizona Corporation; DOTSTER, INC., a Delaware Corporation; MONIKER ONLINE SERVICES, LLC, a Florida Limited Liability Company; PIXEL STREAMED NETWORKING, LLC, a Hawaiian Limited Liability Company; WHOIS PRIVACY PROTECTION SERVICE, INC., a Washington Corporation; and DOES 1 through 10, inclusive,
<b>(b) County of Residence of First Listed Plaintiff</b> (Except in U.S. Plaintiff Cases): Monongalia County, West Virginia	<b>County of Residence of First Listed Defendant</b> (In U.S. Plaintiff Cases Only): Los Angeles, CA
<b>(c) Attorneys</b> (Firm Name, Address and Telephone Number, If you are representing yourself, provide same.)  LAW OFFICES OF FATTOROSI & CHISVIN 6300 Canoga Avenue Suite 550, Woodland Hills, CA 91367 Tel: 818-881-8500 *** see attachment ***	<b>Attorneys</b> (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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**IV. ORIGIN** (Place an X in one box only.)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify):	<input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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**V. REQUESTED IN COMPLAINT:** JURY DEMAND: ☒ Yes    ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION** under F.R.C.P. 23: ☐ Yes    ☒ No     **MONEY DEMANDED IN COMPLAINT:** \$ Preliminary Injunction

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 Copyright Infringement (17 U.S.C. 101, et. seq.) and Federal Unfair Competition under the Lanham Act (15 U.S.C. 1125(a) and (c)).

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities /Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) (405(g)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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**VIII(a). IDENTICAL CASES:** Has this action been previously filed and dismissed, remanded or closed? ☒ No    ☐ Yes

If yes, list case number(s):

**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

06739

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)☐ Check here if the U.S. government, its agencies or employees is a named plaintiff.CHERILYN MCCARVER, West Virginia  
LANE ENTERTAINMENT, INC., Los Angeles, CaliforniaList the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).☐ Check here if the U.S. government, its agencies or employees is a named defendant.VIVID ENTERTAINMENT GROUP, LLC, Los Angeles, California  
DOMAINS BY PROXY, INC., Arizona  
MONIKER ONLINE SERVICES, LLC, Florida  
WHO IS PRIVACY PROTECTION SERVICE, INC., WashingtonDIGITAL PLAYGROUND, INC., Los Angeles, California  
DOTSTER, INC., Washington  
PIXEL STREAMED NETWORKING, LLC, Hawaii;  
DOES 1 through 10List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)**Note:** In land condemnation cases, use the location of the tract of land involved.

Los Angeles County, California

X. SIGNATURE OF ATTORNEY (OR PRO PER)

Date October 9, 2008

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935)(f)(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**Addendum to Civil Cover Sheet**

McCarver v. Vivid Entertainment Group, LLC

1.(c). Attorneys of Record:

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Craig L. Chisvin, Esq., Calif. State Bar No. 191825